

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

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STATE OF TEXAS, *et al.*, )  
vs. )  
UNITED STATES OF AMERICA, *et al.*, )  
\_\_\_\_\_  
Plaintiffs, )  
Defendants. )  
\_\_\_\_\_  
Case No. 1:14-cv-254

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**SUPPLEMENT TO PLAINTIFFS'  
OPPOSED MOTION FOR EARLY DISCOVERY**

On March 5, Plaintiffs filed an Opposed Motion for Early Discovery (ECF No. 183) after Defendants reported to the Court that the U.S. Citizenship and Immigration Services (USCIS) granted Expanded DACA benefits to approximately 100,000 unauthorized aliens between late November 2014 and the Court's mid-February preliminary injunction order. As Plaintiffs explained in their motion, Defendants' conduct is difficult to square with their prior representations to the Court.

As a supplement to the motion filed yesterday, Defendants attach a transcript of a December 19, 2014 telephone conference with the Court. During this conference, Plaintiffs' counsel raised concerns over Defendants' ongoing activities regarding the implementation of Expanded DACA and DAPA, which resulted in the following exchange:

**MR. OLDHAM:** Your Honor, the only – the only one and it's the one I [al]luded to earlier is that, you know, we have been operating under the assumption that, you know, based on the speed with which we have filed

this and the speed – and we're grateful for the speed in which the court can resolve the matter – that we *absolutely protected our interests in this and that there won't be any curve balls or surprises about, you know, deferred action documents being issued*, you know, tomorrow or on the first of the year, but we have tried – we just wanted to make sure that the Court was aware of the things that we have filed in our pleadings and have pointed out, that, you know, the United States has hired a thousand employees in the initial large processing center and that there are, you know, *there is a potential for I think for prejudice or at least changing the calculus on the preliminary injunction inquiry if the state of the playing field changes* between now and the 9th of January.

**THE COURT:** Okay. Ms. Freeny, do you anticipate that happening?

**MS. FREENY:** No, I do not, your Honor. The agency was *directed to begin accepting requests for deferred action* I believe beginning sometime in – by mid-February but even after that *we wouldn't anticipate any decisions on those for some time thereafter*. So there – I really would not expect anything between now and the date of the hearing.

*See Hr'g Tr. at 11-12 (attached as Ex. A) (emphasis added).* Nowhere in this colloquy did Defendants inform the Court that they were planning to consider DACA requests under the new 2014 Expanded DACA “guidance.”

Plaintiffs respectfully request that the Court grant their motion for early dis-  
covery.

Respectfully submitted.

LUTHER STRANGE  
*Attorney General of Alabama*

MARK BRNOVICH  
*Attorney General of Arizona*

DUSTIN McDANIEL  
*Attorney General of Arkansas*

PAMELA JO BONDI  
*Attorney General of Florida*

SAMUEL S. OLENS  
*Attorney General of Georgia*

LAWRENCE G. WASDEN  
*Attorney General of Idaho*

JOSEPH C. CHAPELLE  
PETER J. RUSTHOVEN  
*Counsel for the State of Indiana*

DEREK SCHMIDT  
*Attorney General of Kansas*

JAMES D. "BUDDY" CALDWELL  
*Attorney General of Louisiana*

TIMOTHY C. FOX  
*Attorney General of Montana*

JON C. BRUNING  
*Attorney General of Nebraska*

ADAM PAUL LAXALT  
*Attorney General of Nevada*

WAYNE STENEHJEM  
*Attorney General of North Dakota*

KEN PAXTON  
*Attorney General of Texas*

CHARLES E. ROY  
*First Assistant Attorney General*

SCOTT A. KELLER  
*Solicitor General*

/s/ Angela V. Colmenero  
ANGELA V. COLMENERO  
*Assistant Attorney General*  
Attorney-in-Charge  
State Bar No. 24048399

J. CAMPBELL BARKER  
*Deputy Solicitor General*

ADAM N. BITTER  
*Assistant Attorney General*

Office of the Attorney General of Texas  
P.O. Box 78711  
Austin, Texas 78711-2548  
512-936-1700

MICHAEL DEWINE  
*Attorney General of Ohio*  
ERIC E. MURPHY  
*Co-counsel for the State of Ohio*

E. SCOTT PRUITT  
*Attorney General of Oklahoma*

ALAN WILSON  
*Attorney General of South Carolina*

MARTY J. JACKLEY  
*Attorney General of South Dakota*

HERBERT SLATERY III  
*Attorney General and Reporter of  
Tennessee*

SEAN D. REYES  
*Attorney General of Utah*

PATRICK MORRISEY  
*Attorney General of West Virginia*

BRAD D. SCHIMEL  
*Attorney General of Wisconsin*

BILL SCHUETTE  
*Attorney General for the People of  
Michigan*

DREW SNYDER  
*Counsel for the Governor of Mississippi*

PAUL R. LEPAGE  
*Governor of Maine*

ROBERT C. STEPHENS  
*Counsel for the Governor of North  
Carolina*

TOM C. PERRY  
CALLY YOUNGER  
*Counsel for the Governor of Idaho*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of this pleading on all counsel of record via this Court's CM/ECF system.

/s/ Angela V. Colmenero  
ANGELA V. COLMENERO